# GOVERNMENT OF INDIA
# LABOUR AND EMPLOYMENT
# LOK SABHA

UNSTARRED QUESTION NO:3778
ANSWERED ON:19.12.2005
REGULARISATION OF CONTRACT WORKERS
Singh Shri Ganesh

**Will the Minister of LABOUR AND EMPLOYMENT be pleased to state:**

(a) whether as per ruling of the Supreme Court the contract workers have right to be absorbed into regular service after working for over 240 days a year in an establishment;

(b) if so, the details thereof;

(c) the action taken by the Government thereon;

(d) the number of contract workers in the Government establishments and under the community polytechnics so far; and

(e) the time by which these contract workers are likely to be brought into regular service?

## Answer

MINISTER OF LABOUR AND EMPLOYMENT (SHRI K. CHANDRASEKHAR RAO)

(a) to (e): A statement is annexed.

STATEMENT REFERRED TO IN REPLY TO LOK SABHA UNSTARRED QUESTION NO. 3778 BY SHRI GANESH SINGH REGARDING CONTRACT WORKERS FOR ANSWER ON 19.12.2005

(a) to (c): The Supreme Court in the matter of Haryana State Electricity Board Vs Suresh and others etc observed inter alia that the contract labour after working for more than 240 days in an establishment and having their working supervised and administered by an agency within the meaning of Article 12 of the Constitution, have to be absorbed . Further the court also found that the contract was not genuine but a mere camouflage and a real contractual relationship existed between the principal employer and the contract workmen. This judgement of the Supreme Court was based on the merits of that case. However, a five judge Constitution Bench of the Supreme Court in their subsequent judgement dated 30-8-2001 in the matter of Steel Authority of India Limited Vs National Union of Waterfront Workers & others have ruled that the provisions of the Contract Labour (Regulation & Abolition) Act, 1970 do not provide for absorption of contract labour and that in the event of abolition of contract labour system, the principal employer is not required to order absorption of contract employees engaged in the prohibited category. Further, the ruling of the Supreme Court was that only if the contract is not genuine but a mere camouflage, the contract employees have to be absorbed as direct employees by the principal employer. If the contract is genuine, and the principal employer intends to have regular workmen in the prohibited category of job, he will have to give preference to the erstwhile contract labour, by relaxing conditions as to age, and qualifications other than technical qualification. This judgement is the law of the land and wherever prohibition of contract labour system has been ordered by the appropriate Government, the concerned establishment has to follow the same strictly.

(d): In accordance with the provisions of the Contract Labour (Regulation & Abolition) Act, 1970, both the Central and State Governments are 'appropriate Government' in relation to an establishment coming within their respective spheres of jurisdiction. No data regarding the number of contract workers in Government establishments and under community polytechnics is maintained separately by the Central Government. In the Central sphere, the number of contract workers covered by licenses issued to contractors during the year 2004-2005 was 968792.

(e): The question of regularization of contract workers is governed by the aforesaid judgment of the Supreme Court in the matter of Steel Authority of India Limited and the concerned establishment has to follow this ruling of the Supreme Court strictly.